

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

RONALD T. MONTEZ,

Plaintiff,

v.

SCOTT R. JONES, *et al.*,

Defendants.

Case No. 2:20-cv-01681-JAM-JDP (PC)

FINDINGS AND RECOMMENDATIONS
THAT PLAINTIFF'S AMENDED
COMPLAINT BE DISMISSED FOR
FAILURE TO STATE A CLAIM

ECF No. 15

FOURTEEN-DAY DEADLINE

Plaintiff Ronald T. Montez is a state prisoner proceeding without counsel in this civil rights action brought under 42 U.S.C. § 1983. In his amended complaint, he alleges that defendants Scott Jones and Ann Shubert violated his Eighth Amendment rights by subjecting him to “remote neural monitoring” and other mind-mapping techniques that caused nerve damage and sleep deprivation. ECF No. 15 at 3. These claims cannot proceed. I recommend that the complaint be dismissed for failure to state a claim.

Screening Order

I. Screening and Pleading Requirements

A federal court must screen a prisoner’s complaint that seeks relief against a governmental entity, officer, or employee. *See* 28 U.S.C. § 1915A(a). The court must identify any cognizable claims and dismiss any portion of the complaint that is frivolous or malicious, fails to state a

1 claim upon which relief may be granted, or seeks monetary relief from a defendant who is
 2 immune from such relief. *See* 28 U.S.C. §§ 1915A(b)(1), (2).

3 A complaint must contain a short and plain statement that plaintiff is entitled to relief,
 4 Fed. R. Civ. P. 8(a)(2), and provide “enough facts to state a claim to relief that is plausible on its
 5 face,” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007). The plausibility standard does not
 6 require detailed allegations, but legal conclusions do not suffice. *See Ashcroft v. Iqbal*, 556 U.S.
 7 662, 678 (2009). If the allegations “do not permit the court to infer more than the mere
 8 possibility of misconduct,” the complaint states no claim. *Id.* at 679. The complaint need not
 9 identify “a precise legal theory.” *Kobold v. Good Samaritan Reg’l Med. Ctr.*, 832 F.3d 1024,
 10 1038 (9th Cir. 2016). Instead, what plaintiff must state is a “claim”—a set of “allegations that
 11 give rise to an enforceable right to relief.” *Nagrampa v. MailCoups, Inc.*, 469 F.3d 1257, 1264
 12 n.2 (9th Cir. 2006) (en banc) (citations omitted).

13 The court must construe a pro se litigant’s complaint liberally. *See Haines v. Kerner*, 404
 14 U.S. 519, 520 (1972) (per curiam). The court may dismiss a pro se litigant’s complaint “if it
 15 appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which
 16 would entitle him to relief.” *Hayes v. Idaho Corr. Ctr.*, 849 F.3d 1204, 1208 (9th Cir. 2017).
 17 However, “‘a liberal interpretation of a civil rights complaint may not supply essential elements
 18 of the claim that were not initially pled.’” *Bruns v. Nat’l Credit Union Admin.*, 122 F.3d 1251,
 19 1257 (9th Cir. 1997) (quoting *Ivey v. Bd. of Regents*, 673 F.2d 266, 268 (9th Cir. 1982)).

20 II. Analysis

21 Plaintiff’s claims, focused as they are on “remote neural monitoring” and “mind-
 22 mapping,” are not sufficiently grounded in reality. *See Denton v. Hernandez*, 504 U.S. 25, 33
 23 (1992) (“[A] finding of factual frivolousness is appropriate when the facts alleged rise to the level
 24 of the irrational or the wholly incredible, whether or not there are judicially noticeable facts
 25 available to contradict them.”). As best I can tell, plaintiff alleges that Sheriff Scott Jones
 26 employed a “Cyber Science Crime Unit” and directed that unit to find plaintiff’s “electromagnetic
 27 brain frequency.” ECF No. 15 at 3. The unit’s efforts allegedly resulted in nerve damage and
 28 sleep deprivation. *Id.* These allegations are incredible and cannot proceed. In making this

1 finding, I do not imply that plaintiff is dishonest. He may well believe his claims. That sincerity,
2 however, is not enough to save his case.

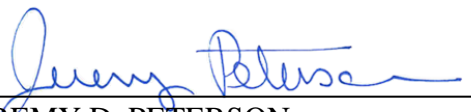
3 I also find that further leave to amend is unwarranted. This action could only proceed if
4 plaintiff changed the fundamental nature of his claims.

5 Accordingly, I RECOMMEND that plaintiff's amended complaint, ECF No. 15, be
6 dismissed with prejudice and without leave to amend for failure to state a claim.

7 These recommendations will be submitted to the U.S. district judge presiding over the
8 case under 28 U.S.C. § 636(b)(1)(B) and Local Rule 304. Within fourteen days of the service of
9 these findings and recommendations, the parties may file written objections with the court and
10 serve a copy on all parties. That document must be captioned "Objections to Magistrate Judge's
11 Findings and Recommendations." The presiding district judge will then review the findings and
12 recommendations under 28 U.S.C. § 636(b)(1)(C).

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14 IT IS SO ORDERED.

15 Dated: March 30, 2021

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17 JEREMY D. PETERSON
18 UNITED STATES MAGISTRATE JUDGE
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